

House Engrossed Senate Bill

**FILED**

**JANICE K. BREWER  
SECRETARY OF STATE**

State of Arizona  
Senate  
Forty-eighth Legislature  
Second Regular Session  
2008

CHAPTER 298

## **SENATE BILL 1476**

AN ACT

AMENDING SECTION 12-267, ARIZONA REVISED STATUTES; AMENDING TITLE 12, CHAPTER 2; ARTICLE 7, ARIZONA REVISED STATUTES, BY ADDING SECTION 12-270; AMENDING TITLE 13, CHAPTER 9, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-924; RELATING TO PROBATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 12-267, Arizona Revised Statutes, is amended to read:

12-267. Adult probation services fund; accounts; expenditure plan; use

A. The board of supervisors shall designate a chief fiscal officer who shall establish and administer an adult probation services fund consisting of:

1. County general fund appropriations for adult probation.

2. State appropriations for adult probation including:

(a) Monies for adult probation officers authorized by article 6 of this chapter.

(b) Monies for state aid for adult probation services authorized by this article.

(c) Monies for adult community punishment programs established pursuant to article 11 of this chapter.

(d) Monies for adult intensive probation pursuant to title 13, chapter 9.

(e) MONIES RECEIVED PURSUANT TO SECTION 12-270 THAT EACH COUNTY SHALL USE FOR THE FOLLOWING:

(i) INCREASING THE AVAILABILITY OF SUBSTANCE ABUSE TREATMENT PROGRAMS FOR PROBATIONERS.

(ii) INCREASING THE AVAILABILITY OF RISK REDUCTION PROGRAMS AND INTERVENTIONS FOR PROBATIONERS.

(iii) GRANTS TO NONPROFIT VICTIM SERVICES ORGANIZATIONS TO PARTNER WITH THE PROBATION DEPARTMENT AND THE COURT TO ASSIST VICTIMS AND INCREASE THE AMOUNT OF RESTITUTION COLLECTED FROM PROBATIONERS.

3. Probation fees collected pursuant to section 13-901.

4. Federal monies provided for adult probation.

5. Adult probation monies from any other source.

B. The chief fiscal officer shall establish and maintain separate accounts in the fund showing receipts and expenditures of monies from each source listed in subsection A of this section. The presiding judge of the superior court shall annually present to the board of supervisors for approval a detailed expenditure plan for the adult probation services fund accounts. Any modifications to the expenditure plan affecting state appropriations shall be made in accordance with the rules and procedures established by the supreme court. Any modifications to the expenditure plan affecting county appropriated funds shall be made in accordance with the policies established by the county. The chief fiscal officer shall disburse monies from the fund accounts only at the direction of the presiding judge of the superior court. The chief fiscal officer of each county ~~shall~~, on or before August 31 of each year for the preceding fiscal year, SHALL submit an annual report to the supreme court showing the total amount of receipts and expenditures in each account of the adult probation services fund.

1 C. The state monies in the adult probation services fund shall be used  
2 in accordance with guidelines established by the supreme court or the  
3 granting authority.

4 D. State monies expended from the adult probation services fund shall  
5 be used to supplement, not supplant, county appropriations for the superior  
6 court adult probation department.

7 E. Up to twenty-five thousand dollars annually deposited in the adult  
8 probation services fund shall be used to pay the annual assessment on member  
9 states of the interstate compact for the supervision of adult offenders  
10 established in section 31-467, ARTICLE X, subsection B.

11 F. County monies in the adult probation services fund shall be used in  
12 accordance with the fiscal policies and procedures established by the board  
13 of supervisors.

14 Sec. 2. Title 12, chapter 2, article 7, Arizona Revised Statutes, is  
15 amended by adding section 12-270, to read:

16 12-270. Probation revocation and crime reduction performance  
17 funding

18 A. THE JOINT LEGISLATIVE BUDGET COMMITTEE STAFF SHALL ANNUALLY  
19 CALCULATE:

20 1. ANY COSTS THAT HAVE BEEN AVOIDED BY REDUCING THE PERCENTAGE OF  
21 PEOPLE ON SUPERVISED PROBATION FROM EACH COUNTY WHOSE PROBATION IS REVOKED  
22 AND WHO ARE SENTENCED TO A TERM OF IMPRISONMENT IN THE STATE DEPARTMENT OF  
23 CORRECTIONS. THE JOINT LEGISLATIVE BUDGET COMMITTEE STAFF SHALL CALCULATE  
24 THE COST AVOIDANCE FOR EACH COUNTY BY COMPARING THE NUMBER OF PEOPLE WHOSE  
25 PROBATION IS REVOKED AND WHO ARE SENTENCED TO A TERM OF IMPRISONMENT IN THE  
26 STATE DEPARTMENT OF CORRECTIONS TO THE ESTIMATED NUMBER OF SUPERVISED  
27 PROBATIONERS THAT WOULD HAVE BEEN REVOKED AT THE BASELINE REVOCATION  
28 PERCENTAGE RATE. THIS CALCULATION SHALL BE BASED ON THE FISCAL YEAR PRIOR TO  
29 THE FISCAL YEAR IN WHICH THE REPORT IS REQUIRED PURSUANT TO SUBSECTION E OF  
30 THIS SECTION. THE BASELINE REVOCATION PERCENTAGE RATE SHALL BE THE  
31 REVOCATION PERCENTAGE RATE IN FISCAL YEAR 2007-2008. THE JOINT LEGISLATIVE  
32 BUDGET COMMITTEE STAFF SHALL CALCULATE AN ANNUAL PER PERSON AVOIDED COST BY  
33 USING THE STATE DEPARTMENT OF CORRECTIONS COST FOR CONTRACTED PRIVATE BEDS AS  
34 OF JUNE 30 IN THE FISCAL YEAR PRIOR TO THE FISCAL YEAR IN WHICH THE REPORT IS  
35 REQUIRED PURSUANT TO SUBSECTION E OF THIS SECTION AND THE AVERAGE LENGTH OF  
36 INCARCERATION FOR A PERSON WHOSE PROBATION IS REVOKED AND WHO IS SENTENCED TO  
37 A TERM OF IMPRISONMENT IN THE STATE DEPARTMENT OF CORRECTIONS.

38 2. THE PERCENTAGE OF PEOPLE ON SUPERVISED PROBATION FROM EACH COUNTY  
39 WHO ARE CONVICTED OF A NEW FELONY OFFENSE COMPARED TO THE PERCENTAGE OF  
40 PROBATIONERS WHO WOULD HAVE BEEN CONVICTED OF A NEW FELONY OFFENSE AT THE  
41 BASELINE PROBATION CONVICTION RATE. THIS CALCULATION SHALL BE BASED ON THE  
42 FISCAL YEAR PRIOR TO THE FISCAL YEAR IN WHICH THE REPORT IS REQUIRED PURSUANT  
43 TO SUBSECTION E OF THIS SECTION. THE BASELINE PROBATION CONVICTION RATE  
44 SHALL BE THE CONVICTION RATE IN FISCAL YEAR 2007-2008.

1 B. NOTWITHSTANDING SECTION 12-269, BEGINNING IN FISCAL YEAR 2010-2011,  
2 THE LEGISLATURE SHALL ANNUALLY APPROPRIATE TO THE ADMINISTRATIVE OFFICE OF  
3 THE COURTS FORTY PER CENT OF ANY COSTS THAT ARE AVOIDED AS CALCULATED IN  
4 SUBSECTION A, PARAGRAPH 1 OF THIS SECTION TO BE DEPOSITED IN THE ADULT  
5 PROBATION SERVICES FUND OF EACH COUNTY ESTABLISHED PURSUANT TO SECTION 12-267  
6 IF THERE IS A REDUCTION IN THE PERCENTAGE OF PEOPLE FROM THAT COUNTY WHO ARE  
7 ON SUPERVISED PROBATION AND WHO ARE CONVICTED OF A NEW FELONY OFFENSE AS  
8 CALCULATED IN SUBSECTION A, PARAGRAPH 2 OF THIS SECTION.

9 C. THE MONIES APPROPRIATED PURSUANT TO THIS SECTION SHALL BE USED TO  
10 SUPPLEMENT, NOT SUPPLANT, ANY OTHER STATE OR COUNTY APPROPRIATION FOR THE  
11 SUPERIOR COURT ADULT PROBATION DEPARTMENT.

12 D. ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE ADMINISTRATIVE OFFICE OF  
13 THE COURTS AND THE STATE DEPARTMENT OF CORRECTIONS SHALL JOINTLY REPORT TO  
14 THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND  
15 THE GOVERNOR AND SHALL PROVIDE A COPY OF THE REPORT TO THE JOINT LEGISLATIVE  
16 BUDGET COMMITTEE, THE SECRETARY OF STATE AND THE DIRECTOR OF THE ARIZONA  
17 STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS. THE REPORT SHALL INCLUDE:

18 1. THE AVERAGE NUMBER OF PEOPLE ON SUPERVISED PROBATION IN EACH  
19 COUNTY.

20 2. THE NUMBER OF PROBATIONERS IN EACH COUNTY WHOSE PROBATION IS  
21 REVOKED EACH YEAR.

22 3. THE NUMBER OF PROBATIONERS IN EACH COUNTY WHO ARE CONVICTED OF NEW  
23 CRIMES EACH YEAR.

24 4. THE STATE DEPARTMENT OF CORRECTION'S MOST RECENT COST FOR  
25 CONTRACTED PRIVATE BEDS.

26 E. BEGINNING IN FISCAL YEAR 2009-2010, THE JOINT LEGISLATIVE BUDGET  
27 COMMITTEE STAFF SHALL ANNUALLY REPORT BY NOVEMBER 15 TO THE JOINT LEGISLATIVE  
28 BUDGET COMMITTEE THE RESULTS CALCULATED PURSUANT TO THIS SECTION.

29 F. ON OR BEFORE JUNE 30, 2014, THE AUDITOR GENERAL SHALL:

30 1. COMPLETE A PERFORMANCE AUDIT, AS DEFINED IN SECTION 41-1278, OF THE  
31 PROBATION REVOCATION OR ADJUSTMENT AND CRIME REDUCTION PERFORMANCE AS  
32 PROVIDED BY THIS SECTION AND SECTION 13-924.

33 2. PROVIDE A COPY OF THE PERFORMANCE AUDIT TO THE PRESIDENT OF THE  
34 SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE GOVERNOR, THE  
35 SECRETARY OF STATE, THE DIRECTOR OF THE ARIZONA STATE LIBRARY, ARCHIVES AND  
36 PUBLIC RECORDS AND ANY OTHER PERSON REQUESTING A COPY.

37 Sec. 3. Title 13, chapter 9, Arizona Revised Statutes, is amended by  
38 adding section 13-924, to read:

39 13-924. Probation; earned time credit; applicability

40 A. THE COURT MAY ADJUST THE PERIOD OF A PROBATIONER'S SUPERVISED  
41 PROBATION ON THE RECOMMENDATION OF AN ADULT PROBATION OFFICER FOR EARNED TIME  
42 CREDIT.

43 B. EARNED TIME CREDIT EQUALS TWENTY DAYS FOR EVERY THIRTY DAYS THAT A  
44 PROBATIONER DOES ALL OF THE FOLLOWING:

1           1. EXHIBITS POSITIVE PROGRESSION TOWARD THE GOALS AND TREATMENT OF THE  
2 PROBATIONER'S CASE PLAN.

3           2. IS CURRENT ON PAYMENTS FOR COURT ORDERED RESTITUTION AND OTHER  
4 OBLIGATIONS.

5           3. IS CURRENT IN COMPLETING COMMUNITY RESTITUTION.

6           C. ANY EARNED TIME CREDIT AWARDED PURSUANT TO THIS SECTION SHALL BE  
7 REVOKED IF A PROBATIONER IS FOUND IN VIOLATION OF A CONDITION OF PROBATION.

8           D. THIS SECTION DOES NOT APPLY TO A PROBATIONER WHO IS CURRENTLY:

9           1. ON LIFETIME PROBATION.

10          2. ON PROBATION FOR ANY CLASS 2 OR 3 FELONY.

11          3. ON PROBATION EXCLUSIVELY FOR A MISDEMEANOR OFFENSE.

12          4. REQUIRED TO REGISTER PURSUANT TO SECTION 13-3821.

13          E. THIS SECTION HAS NO EFFECT ON THE ABILITY OF THE COURT TO TERMINATE  
14 THE PERIOD OF PROBATION OR INTENSIVE PROBATION PURSUANT TO SECTION 13-901,  
15 SUBSECTION E AT A TIME EARLIER THAN ORIGINALLY IMPOSED.

16          Sec. 4. Legislative findings

17          The legislature finds that:

18          1. Arizona's crime rate is unacceptably high and among the highest in  
19 the nation.

20          2. Arizona's prison population is projected to increase by fifty per  
21 cent from 2007 to 2017 according to an independent projection by the JFA  
22 institute assuming current admissions trends continue and is estimated to  
23 cost taxpayers an additional two to three billion dollars in construction and  
24 operating costs over the next decade.

25          3. Each year over four thousand probationers are revoked to prison in  
26 Arizona for failing to comply with the conditions of their probation  
27 supervision and not necessarily for committing a new crime. The cost of  
28 housing these probation revocations in state prison costs taxpayers an  
29 estimated one hundred million dollars annually.

30          4. Nearly eighty per cent of the persons whose probation is revoked  
31 and who are sent to prison are property or drug offenders, and alcohol or  
32 drug use was a factor in forty-five per cent of the revocations.

33          5. Half of the individuals revoked from probation in Maricopa county  
34 chose to be sentenced to prison rather than be placed back on probation  
35 supervision in the community.

36          6. Just a few "high stakes" neighborhoods in Arizona account for a  
37 majority of criminal activity and involvement in the criminal justice system.  
38 A single neighborhood in Phoenix is home to just one per cent of the state's  
39 total resident population, but accounts for six and one-half per cent of the  
40 state's prison population.

41          7. To increase public safety, state, county and local governments must  
42 work together to integrate efforts by law enforcement, probation officers,  
43 parole officers, prosecutors, social service organizations and community  
44 based organizations in these high stakes communities to fight crime.

1       Sec. 5. Applicability

2       This act applies to any person who is serving a term of probation on or  
3 after the effective date of this act.

4       Sec. 6. Effective date

5       Section 13-924, Arizona Revised Statutes, as added by this act, is  
6 effective from and after December 31, 2008.

APPROVED BY THE GOVERNOR JUNE 27, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 27, 2008.